

ATTORNEY GENERAL GUIDELINES FOR
FBI FOREIGN INTELLIGENCE COLLECTION
AND FOREIGN COUNTERINTELLIGENCE INVESTIGATIONS *

EFFECTIVE: APRIL 18, 1983

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ATTORNEY GENERAL GUIDELINES FOR
FBI FOREIGN INTELLIGENCE COLLECTION
AND FOREIGN COUNTERINTELLIGENCE INVESTIGATIONS

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ATTORNEY GENERAL GUIDELINES FOR
FBI FOREIGN INTELLIGENCE COLLECTION
AND FOREIGN COUNTERINTELLIGENCE INVESTIGATIONS

I. SCOPE (U)

- A. These guidelines are established by the Attorney General to govern all foreign intelligence, foreign counterintelligence, foreign intelligence support activities, and intelligence investigations of international terrorism conducted by the FBI pursuant to Executive Order 12333. They also govern all FBI investigations of violations of the espionage statutes and certain FBI investigations requested, or FBI assistance to investigations conducted, by foreign governments. (U)
- B. All significant new legal questions as to the coverage and interpretation of these guidelines will be resolved by the Office of Intelligence Policy and Review. (U)

II. DEFINITIONS (U)

A.

B.

- C. EMPLOYEE OR ASSET: any person employed by, assigned to, or acting for or at the direction of the Federal Bureau of Investigation. (U)

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- D. FOREIGN COUNTERINTELLIGENCE: information gathered and activities conducted to protect against espionage and other intelligence activities, sabotage, or assassinations conducted by, for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document, or communications security programs. (U)
- E.
- F. FOREIGN INTELLIGENCE: information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities. (U)
- G. FOREIGN INTELLIGENCE AGENT: a person, other than a foreign intelligence officer, who is engaged in intelligence activities or sabotage for or on behalf of a foreign power, or international terrorist activities, or who knowingly conspires with or aids or abets such a person in such activities. (U)
- H. FOREIGN INTELLIGENCE OFFICER: a member of a foreign intelligence service. (U)
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J. FOREIGN POWER:

1. a foreign government or any component thereof, whether or not recognized by the United States;
2. a faction of a foreign nation or nations, not substantially composed of United States persons;
3. an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;
4. a group engaged in international terrorism or activities in preparation therefor;
5. a foreign-based political organization, not substantially composed of United States persons; or
6. an entity that is directed and controlled by a foreign government or governments. (U)

K. FOREIGN VISITORS: foreign nationals in the United States who are not permanent resident aliens of the United States. (U)

L. FOR OR ON BEHALF OF A FOREIGN POWER: the determination that activities are for or on behalf of a foreign power must be based on consideration of the extent to which the foreign power is involved in:

1. control, leadership or policy direction;
2. financial or material support; or
3. leadership, assignments, or discipline. (U)

M. INTELLIGENCE ACTIVITIES: any activity conducted for intelligence purposes or to affect political or governmental processes by, for or on behalf of a foreign power. (U)

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N. INTERNATIONAL TERRORISM

Activities that:

1. involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any States;
 2. appear to be intended:
 - a. to intimidate or coerce a civilian population;
 - b. to influence the policy of a government by intimidation or coercion; or
 - c. to affect the conduct of a government by assassination or kidnapping; and
 3. occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum. (U)
- O. INTERNATIONAL TERRORIST: an individual or group that knowingly engages in international terrorism or activities in preparation therefor, or knowingly aids or abets any person engaged in such activities. (U)

P.

- Q. PUBLICLY AVAILABLE: information that has been published or broadcast for general public consumption, is available on request to any member of the general public, could lawfully be seen or heard by any casual observer, or is made available at a meeting open to the general public. (U)

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- R. SUBJECTS: for purposes of these guidelines, subjects of counterintelligence investigations are divided into: (1) foreign powers, (2) foreign officials, (3) foreign visitors, and (4) United States persons. (U)
- S. TARGET: an individual or organization that is the object of a recruitment effort by a foreign intelligence service or international terrorists; or information, persons, property, or activities in the United States that are the object of intelligence activity by a foreign intelligence service or international terrorists. (U)
- T. UNITED STATES: when used in a geographical sense, means all areas under the territorial sovereignty of the United States. (U)
- U. UNITED STATES PERSON: a United States citizen, a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments. (U)

III. COLLECTION OF FOREIGN INTELLIGENCE AND FOREIGN COUNTERINTELLIGENCE INFORMATION (U)

A. GENERAL (U)

1. The FBI may collect foreign intelligence, foreign counterintelligence, international terrorism and other information as permitted by these guidelines. Such collection shall be accomplished by the least intrusive means that will provide information of the quality, scope and timeliness required and in a manner that is consistent with the Constitution and laws of the United States, these guidelines and Executive Orders. (U)

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D. INVESTIGATIONS FOR AND ASSISTANCE TO FOREIGN GOVERNMENTS (U)

1. Any request for FBI intelligence or security related investigations within the United States from a foreign law enforcement, intelligence, or security agency, or for FBI assistance to such investigations by such agencies, must identify the information sought and specify the purpose of the investigation. (U)

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4. The FBI may provide other material and technical assistance to foreign governments to the extent not otherwise prohibited by law. (U)

E. FOREIGN INTELLIGENCE (U)

1. COLLECTION OF FOREIGN INTELLIGENCE INFORMATION

- a. The FBI may collect foreign intelligence in response to requirements of topical interest published by the National Foreign Intelligence Board (NFIB), or its successor. Upon a request by an official of the Intelligence Community designated by the President, the FBI may also collect foreign intelligence to clarify or complete foreign intelligence previously disseminated by the FBI. Copies of such requests shall be provided to the Office of Intelligence Policy and Review. (U)
- b. When approved by the Attorney General or a designee, the FBI may collect other foreign intelligence in response to tasking specifically levied on the FBI by an official of the Intelligence Community designated by the President. (U)
- c.

2. OPERATIONAL SUPPORT

- a. When approved by the Attorney General or a designee, the FBI may provide operational support to authorized intelligence activities of other entities of the Intelligence Community upon a request made or confirmed in writing by an official of the U.S. Intelligence Community designated by the President. The request shall describe the type and duration of support required, the reasons why the FBI is being requested to furnish the assistance, the techniques that

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are expected to be utilized, and shall certify that such assistance is necessary to an authorized activity of the requesting entity. (U)

- b. Such support may include techniques set forth in the approved request and, with the approval of FBI Headquarters, any other technique that does not substantially alter the character of the support. The Office of Intelligence Policy and Review shall be promptly notified of the utilization of any such additional techniques. (U)
- c. Recruitment of new assets is permissible to obtain information or services necessary to furnish the requested support so long as these assets are subject to the same limitations as any other FBI employee or asset. (U)

IV. SPECIAL TECHNIQUES (U)

A. UNDISCLOSED PARTICIPATION (U)

1.

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2.

3. Undisclosed participation that will influence rights protected by the First Amendment, for example through assuming a leadership role in an organization, may be approved if the Director or Acting Director of the FBI has determined that:

- a. There is probable cause to believe the organization is engaged in espionage, sabotage or intelligence activity for or on behalf of a foreign power or international terrorism; or
- b. the undisclosed participation is essential to establish, enhance, or maintain cover and the effect on the activities of the organization is incidental to this purpose

and the Office of Intelligence Policy and Review is notified of the nature and circumstances of the undisclosed participation. (U)

4. For the purpose of authorizing undisclosed participation:

- a. "Organization within the United States" means any organization within the U.S., whether or not included in the definition of "U.S. person", but does not include foreign diplomatic establishments or entities openly acknowledged by a foreign government to be directed and controlled by such foreign government;

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- b. "appropriate officials of the organization" means any official of the organization reasonably believed to be authorized to act on behalf of the organization in relation to the activity to be engaged in;
- c. "participation in any organization" does not include attendance at an activity open to the public or to acknowledged employees of the U.S. Government, employment or other personal activities not related to intelligence activities, or registration and attendance at an academic institution solely to obtain education or training relevant to FBI employment or to support a future undercover role. (U)

B. OPERATIONS OUTSIDE THE UNITED STATES (U)

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C. CONTRACTING WITH AN ACADEMIC INSTITUTION (U)

The FBI shall not enter into contracts or arrangements for the provision of goods or services with academic institutions in the United States without disclosing FBI sponsorship to the appropriate officials of the institution. This restriction does not apply to the registration or attendance at academic institutions by FBI employees, which is governed by Section IV.A. of these Guidelines or to the purchase or lease of real estate where such property is not used by the institution for academic purposes. (U)

D. MAIL COVERS (U)

1. FBI mail covers will conform to U.S. Postal Service regulations. (U)
- 2.
3. Where time is of the essence, FBI Headquarters may orally request the Chief Postal Inspector or a designee to approve a mail cover if the required factual basis exists. The request to the U.S. Postal Service must be confirmed in writing within two business days, and the Attorney General will be promptly notified of mail covers that would otherwise require his approval. (U)
4. Renewals of mail covers may be obtained under the same conditions and procedures applicable to

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the original request under these guidelines. Those mail covers originally requiring Attorney General approval, however, may be renewed by FBI Headquarters where the facts and circumstances of the investigation have not significantly changed. (U)

5.

E. TELEVISION CAMERAS AND OTHER MONITORING (U)

The use of CCTV and direction finders, including beepers, must be approved by FBI Headquarters. The use of other monitoring devices must be approved by the SAC. In any case where there is a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, appropriate judicial authority must be obtained through FBI Headquarters. (U)

F. CONSENSUAL MONITORING (U)

1. This section governs monitoring that would constitute electronic surveillance as defined in the Foreign Intelligence Surveillance Act but for the lawful consent of a party to the communication. (U)
2. FBI Headquarters may authorize such monitoring for up to ninety days to obtain counterintelligence, foreign intelligence, or international terrorist information. Extensions may be requested under the same conditions applicable to the original request. (U)

V. ELECTRONIC SURVEILLANCE. The FBI may undertake electronic surveillance in accordance with the Foreign Intelligence Surveillance Act of 1978 (50 USC § 1801), or Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. § 2510). (U)

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VI. PHYSICAL SEARCHES. The following procedures apply to physical searches of property or premises, but do not apply to searches for the purpose of placing, conducting surveys for, or maintaining authorized electronic surveillance devices; or to the receipt by the FBI of any information, property or materials furnished by individuals acting on their own initiative. (U)

A. REAL PROPERTY (U)

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B. PERSONAL PROPERTY (U)

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D. EMERGENCY PROCEDURES (U)

1. A physical search that would require written Attorney General approval may be requested and

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approved orally if the opportunity to search would otherwise be lost. The request and approval shall be reduced to writing as soon as possible and shall set forth the exigent circumstances justifying oral approval. (U)

2. In exigent circumstances a search that would otherwise require oral or written Attorney General approval may be undertaken without such approval if:
 - a. all the conditions necessary to justify the search exist;
 - b. the opportunity would be lost in the time necessary to obtain Attorney General approval; and
 - c. the search is reported to the Attorney General within 24 hours together with an explanation of the exigent circumstances justifying the search. (U)

E. MINIMIZATION OF INFORMATION CONCERNING UNITED STATES PERSONS (U)

FBI physical searches shall be directed only at the gathering of foreign intelligence or counterintelligence information. Other information concerning U.S. persons incidentally acquired may be retained or indexed if it relates to FBI counterintelligence or law enforcement responsibilities or concerns FBI employees or assets. (U)

F. GENERAL (U)

1. Nothing in these guidelines prohibits physical searches authorized by judicial warrant, or in emergency circumstances where necessary to protect a person whose life is reasonably believed to be in imminent danger. (U)
- 2.
3. For purposes of this section, no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the First Amendment. (U)

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VII. RETENTION AND DISSEMINATION (U)

A. RETENTION (U)

The FBI shall retain records relating to all foreign intelligence, counterintelligence and international terrorism information collection or support activities in accordance with a records retention plan approved by the National Archives and Records Service. (U)

B. DISSEMINATION (U)

1. GENERAL

- a. Nothing in this section shall limit or restrict dissemination with the consent of the subject or where necessary to protect life or property from threatened force or violence or to obtain information for the conduct of a lawful FBI investigation. (U)
- b. Information that is publicly available or does not identify U.S. persons may be disseminated for any lawful purpose. (U)
- c. Non-publicly available information may be disseminated to appropriate entities within the Intelligence Community, whether or not it identifies U.S. persons, for their determination whether the information may be retained. (U)
- d. Non-publicly available information that identifies U.S. persons may be disseminated for any lawful purpose outside the Intelligence Community if the identities are or may reasonably become necessary to understand or assess the importance of the information. (U)
- e. Transmission of information to any component of the Department of Justice is not dissemination within the meaning of these Guidelines. (U)

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2. AUTHORITY FOR DISSEMINATION

a. Dissemination to Federal Authorities

The FBI may disseminate information to other federal authorities when it:

- 1) relates to a crime or violation of regulation which falls within their investigative jurisdiction;
- 2) relates to their authorized responsibilities;
- 3) is required to be furnished to another federal agency by Executive Order 10450 or its successor; or
- 4) is required to be disseminated by statute, National Security Council directive, interagency agreement approved by the Attorney General, or Presidential directive. (U)

b. Dissemination to State and Local Government Authorities

Facts or information relating to crimes may be disseminated to state and local governments with appropriate jurisdiction if such dissemination is consistent with the interests of U.S. national security. (U)

c. Dissemination to Foreign Governments

- 1) The FBI may cooperate with foreign law enforcement, intelligence or security agencies by furnishing information obtained under these guidelines that is relevant to the functions of those agencies if such dissemination is in the interests of U.S. national security and the FBI considers the effect the dissemination may be expected to have on any identifiable U.S. person. (U)

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2) Information received from or obtained at the request of a foreign law enforcement, intelligence or security agency may be disseminated under these guidelines in the same manner as similar information acquired by the FBI within the United States. (U)

3) Dissemination to a foreign government posing significant implications to foreign relations shall be coordinated with the Department of State. (U)

d. Dissemination to Congressional Committees (U)

1) Except for briefings and testimony on matters of general intelligence interest, foreign intelligence, counterintelligence, or criminal information may be disseminated upon request to appropriate Congressional committees when authorized by the Attorney General or a designee. Any agency requesting or collaborating in the collection shall be consulted prior to dissemination. (U)

2) A request for U.S. Person information deleted from the dissemination under these guidelines shall be referred to the Attorney General, or designee, for resolution. (U)

e. Dissemination to the White House

Dissemination of information to the White House is governed by the annex to these guidelines. (U)

3. INFORMATION OBTAINED FROM FOREIGN INTELLIGENCE ELECTRONIC SURVEILLANCE

Dissemination of information acquired under the Foreign Intelligence Surveillance Act is governed by court ordered minimization procedures. Procedures for dissemination of such information to the White House and Congressional committees also apply. (U)

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4. INFORMATION OBTAINED FROM PHYSICAL SEARCHES

- a. Information concerning U.S. persons obtained from physical searches undertaken where there is a reasonable expectation of privacy and a warrant would be required for law enforcement purposes may be disseminated in strict accordance with the other provisions of this section as well as any special minimization procedures approved by the Attorney General. (U)
- b. Dissemination of such information relating to criminal activity shall include a notice that the information shall not be used in connection with a prosecution or other judicial proceeding without consultation with the FBI and the advance written approval of the Attorney General or a designee. (U)
- c. The identities of U.S. persons may not be disseminated to a foreign government without the advance written approval of the Attorney General or a designee. (U)

5. DISSEMINATION IN DOUBLE AGENT OPERATIONS

6. RECORDS OF DISSEMINATION

The FBI shall maintain records to the extent required by law of all disseminations outside the Department of Justice of information obtained under these guidelines. (U)

VIII. CIA AND DOD ACTIVITIES WITHIN THE UNITED STATES (U)

i

IX. REPORTING (U)

A.

B. FBI Headquarters shall promptly notify the Office of Intelligence Policy and Review of any request by a foreign law enforcement, intelligence or security agency for information or assistance in an investigative matter involving a U.S. person. FBI Headquarters shall maintain, and provide to the Office of Intelligence Policy and Review upon request, statistics on the number of requests for assistance received from foreign law enforcement, intelligence or security agencies involving U.S. persons. The statistics shall identify the nature of the request and whether the assistance requested was furnished or declined. (U)

C.

D.

- E. Summaries furnished under paragraph C or reports of investigations reviewed under paragraph D concerning assets or potential assets may be prepared for review in a form which protects identity, but must include the status of the subject, i.e., whether a foreign national or American citizen, and a description of the techniques used for recruitment or attempted recruitment. (U)
- F. To ensure the security of foreign intelligence collection and counterintelligence investigations, the Office of Intelligence Policy and Review shall, except in unusual circumstances, conduct reviews of FBI reports in a physically secure area at FBI Headquarters. (U)

4/1/83
Date


William French Smith
Attorney General

GUIDELINES FOR FBI DISSEMINATION TO THE
WHITE HOUSE OF FOREIGN INTELLIGENCE AND
COUNTERINTELLIGENCE INFORMATION

Part I

- A. Except as otherwise provided in Part II, the FBI may provide to the White House information in the approved categories described in Part I.B which has been developed through:
- (1) investigation, research, or analysis in response to regularly published, current intelligence requirements or other formal tasking from the Intelligence Community;
 - (2) authorized counterintelligence investigations and activities;
 - (3) authorized law enforcement investigations and activities; or
 - (4) studies and analyses of foreign intelligence or foreign counterintelligence.

White House requests to the FBI for such information shall be made through the National Security Council (NSC) staff with simultaneous copies to the Office of Intelligence Policy and Review in the Department of Justice (OIPR). The FBI shall provide OIPR with simultaneous copies of disseminations to the White House that identify U.S. persons.

- B. The following categories of information are approved for purposes of this Part. The Attorney General in consultation with the Assistant to the President for National Security Affairs, may authorize dissemination of information not included in one of these categories or the addition of new categories.

(1) Foreign Intelligence Information

- a. information indicative of policy positions adopted by foreign officials or governments;
- b. information relating to possible changes in leadership positions of foreign governments, parties, or factions;
- c. information concerning foreign officials' reactions to major foreign policy initiatives;
- d. information indicative of imminent hostilities involving any foreign power;
- e. information concerning foreign economic or foreign political matters which might have significant national security ramifications; and
- f. information concerning high priority targets as set forth in regularly published requirements for the Intelligence Community.

(2) Foreign Counterintelligence Information

- a. information concerning notable activities of foreign intelligence services in the United States;
- b. information concerning any efforts of foreign intelligence services to penetrate the White House or NSC;
- c. information concerning contacts by the NSC staff or other White House personnel with foreign intelligence service personnel; and
- d. counterintelligence studies prepared for dissemination to the Intelligence Community.

Part II

- A. When the FBI has any question regarding any request or dissemination under these Guidelines, the matter may be referred to OIPR with any appropriate recommendations. If necessary, the request or dissemination may be modified after appropriate consultation between OIPR, FBI, the NSC staff and, if necessary, the Attorney General.
- B. Compromising information concerning U.S. officials or U.S. political organizations, or any information concerning activities of U.S. persons intended to affect the political process in the United States, may not be disseminated to the White House by the FBI without the specific approval of the Attorney General based on a determination that dissemination of the information is essential for foreign intelligence or counterintelligence purposes or the conduct of foreign affairs. However, such prior approval is not required for dissemination of information described in sections B(2)b and c of Part I.
- C. Dissemination by the FBI of information obtained through extraordinary techniques, or that concerns United States persons and their activities, shall be accomplished in accordance with relevant provisions of the Attorney General Guidelines for FBI Foreign Intelligence Collection and Counterintelligence Investigations.
- D. These guidelines do not apply to dissemination by the FBI to the White House of information acquired in the course of an FBI investigation requested by the White House into the background of a potential employee or appointee, or responses to requests from the White House under Executive Order 10450.